IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6956 of 1999
and
SPECIAL CIVIL APPLICATIONS No.8599, 7600 and 9724 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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ANYABHAI MANCHHIBHAI CHAUDHARY

Versus

STATE OF GUJARAT

Appearance:

MR RK MISHRA for Petitioners
MR VM PANCHOLI, Ld AGP for Respondent No. 1-4
RULE SERVED for Respondent No. 5-6

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 27/07/2001

COMMON ORAL JUDGEMENT

These batches of petitions were filed by regularly selected candidates in pursuance of an advertisement issued by the Government for filling up vacant posts of Class-4 staff. In the interview, these

petitioners were selected for appointment against Class-4 positions as indicated by the Director of Social Welfare Department by his letter dated 1-4-1992, which is at Annexure "A" to the petition. After selection, the petitioners, instead of their appointment on regular pay of Class-4 staff, were appointed on daily-wage basis on the alleged ground that there was an order of the Government, banning recruitment in Government offices. However, the petitioners continued in their appointment as daily-wagers, even though they were regularly selected for filling up the regular vacant positions under the Government. The appointment orders of the petitioners are in the respective petitions. While continuing in service, they were making grievances to the Government to give them regular pay scale of Class-4 employees, as they were selected for such appointment. In view of the claim of the petitioners, the Government ultimately decided to terminate the posts of the petitioners, as the petitioners were given appointments on daily-wage basis. When the Government issued the order dated 6-4-1994 for terminating the services of the regularly selected persons, batches of petitions were filed by these regularly selected persons, challenging the aforesaid order of the Government. Those cases have been decided by various Benches of this Court and the decisions of the Court in earlier cases have been passed in SCAs No.6366/1995, 12243/1994, 11537/1994 and 7156/1996. In all these judgements, this Court uniformly held that when the petitioners were regularly selected for appointment against regular posts, they should not have been appointed on daily-wage basis and, therefore, in some cases, the Court has passed order for regularization of appointment in regular pay scale of Class-4 posts from the date of Government order i.e. 6-4-1994, by which it was proposed to terminate the services of the petitioners, and in some cases from the date of service of notice of Rule on the respondents.

I have gone through the judgement of all these cases passed by this Court from time to time. These petitioners are squarely covered by the decisions of the aforesaid cases. It is submitted by Mr.Mishra, learned Counsel for the petitioners, that the petitioners were appointed in the year 1992 and they have been still serving as daily-wagers and thereby the Government have exploited their helplessness by not giving the regular pay scale of Class-4 staff.

I have also heard Mr.V.M.Pancholi, learned AGP appearing on behalf of the State. Mr.Pancholi submits that because of the ban of appointments, even though the

petitioners were selected for appointment on regular basis, they were offered to serve as daily-wagers, which they have accepted and, therefore, they should not claim their regularization from the date of appointment. It appears that the orders of regularization have been passed by this Court in various earlier cases, which reached its finality and the Government did not file any appeal against those judgements and the petitioners of those judgements have been regularized by the Government. In view of this, I am of the view that all these petitioners in this batch of petitions are also similarly situated. Accordingly, the respondents are directed to regularize the services of the petitioners from the date of their juniors were regularly appointed in Class-4 posts and the fixation shall be made notionally. After notional fixation from the date of regularization, they will get financial benefits from today, i.e.27-7-2001. Since they have agreed to work as daily-wage workers, I am of the view that they should not get the financial benefits till today.

Mr.Pancholi, learned AGP also submits that the payment of arrears will put a heavy financial burden on the Government. Considering these aspects, I am not allowing the payment of arrears to the petitioners.

Mr.Mishra, learned Counsel for the petitioners, submits that the Government takes a long time to regularize the services of the employees and, therefore, a time may be fixed. It is difficult to fix any time. However, the Government shall make all efforts to regularize the petitioners within three months from the date of receipt of this order.

At the time of hearing of the matter, the Dy. Director was present in the Court, who also informed the Court that in the earlier cases all orders of the Court were complied with.

With the aforesaid observations and directions, all the petitions are allowed. However, I make no order as to costs. Rule is made absolutely.

27-7-2001 (P. K. Sarkar, J.)

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